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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,042	06/23/2004	Syuushi Nomura	042449	5201
38834 7590 01/09/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
			EXAMINER SOOHOO, TONY GLEN	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,042	<b>Applicant(s)</b> NOMURA ET AL.	
	<b>Examiner</b> Tony G. Soohoo	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,4-6 and 8-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2, 4-6, 8-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed invention of a "fluid processing device" which operates as a "field converter", as described in the specification, is non-enabling whereby the specification fails to adequately teach 1) the operative mechanism(s) which actively causes the "processing" of the fluid and 2) what physical property of the fluid is being "processed". It is not understood is the "field" of the fluid with is being converted by the "field converter". The specification fails to adequately describe the manner in which the device operates to produce a **measurable change in physical property** of the fluid being "processed". Although, the specification provides secondary evidence of asserted **effects of due to the use of the fluid** after the processing (i.e. use in watering of plants, use watering in drinking water animals, use as a change in taste for fluids, or generally, a conversion of a "field"), there is **no direct measurable evidence to any physical change** of the fluid **before and after** interaction with the "fluid processing apparatus", or "field converter".

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 2, 4-6, and 8-13 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The invention fails provide any change in the property of a fluid in cooperation with the structure. There is no evidence of a change in a measurable "field" or a "conversion" of a field, by the fluid processor, as asserted in the specification.

Claims 2, 4-6 and 8-13 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility.

The asserted utility is to a "field conversion", however the specification lacks sufficient measurable evidence and description to detect such a field. Since one may not adequately measure or determine the state of the field, one can not determine a change or processing of the field within the fluid. There appears to be no physical change to the fluid produced by the device. Also see the discussion under the heading: "Claim Rejections - 35 USC § 112.", above.

Claims 2, 4-6, and 8-13 also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

***Response to Amendment***

5. The affidavit under 37 CFR 1.132 filed 02/27/2007 is insufficient to overcome the rejection of the instant claims based upon 35 USC 101 and 112 as set forth above on because the affidavit has 1) not addressed results directly produced by the particular structural limitations required in the claim(s) in an effect to a change to the asserted "field" conversion, 2) has not sufficiently addressed any issues of control tests or statistical variation of the tests of the effects of the fluid due directly to the apparatus in comparison to the handling of the fluid before and after interaction with the device as presented in the paper which may explain the differences in results.

***Conclusion***

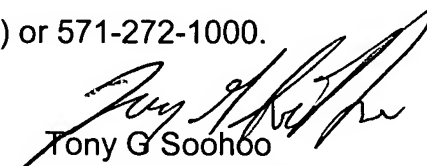
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The three documents cited in the PTO 892 show pictures of the article of manufacture of two puzzles named THINKOMINOS, and DRIVE YA NUTS discloses a configuration of Hexagon shaped elements within a hexagonal shaped outer housing or base.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 8AM-5PM, Mon-Thurs.

Art Unit: 1797

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Tony G Soohoo  
Primary Examiner  
Art Unit 1797